

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 14, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BARBARA B.,

Plaintiff,

v.

MARTIN O'MALLEY,
Commissioner of Social Security,

Defendant.

No. 4:24-CV-05091-TOR

REPORT AND RECOMMENDATION

Before the Court is Plaintiff's Application to proceed *in forma pauperis*. ECF No. 2. Plaintiff's reported household income and assets demonstrate that she has sufficient means to cover the cost of the Filing Fee and the Administrative Fee required by the Court. *See* 28 U.S.C. § 1914(a).

A denial of a motion to proceed *in forma pauperis* is a final judgement that is immediately appealable under 28 U.S.C. § 1291, and a magistrate judge has no authority to issue a dispositive order denying *in forma pauperis* status without consent of the parties. *Tripati v. Rison*, 847 F.2d 548, 548-49 (9th Cir. 1988). Plaintiff has not consented to proceed before a magistrate judge.

Accordingly, **IT IS RECOMMENDED:**

1. Plaintiff's Application to Proceed *In Forma Pauperis*, ECF No. 2, be **DENIED**.

2. Plaintiff pay the full Filing Fee and Administrative Fee within thirty (30) days of any Order adopting this Report and Recommendation.

OBJECTIONS

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party shall file written objections with the Clerk of the Court and serve objections on all parties, specifically identifying any the portions to which objection is being made, and the basis therefor. Any response to the objection shall be filed within fourteen (14) days after receipt of the objection. Federal Rule of Civil Procedure 6(d) adds additional time after certain kinds of service.

A district judge will make a de novo determination of those portions objected to and may accept, reject, or modify the magistrate judge's determination. The judge need not conduct a new hearing or hear arguments and may consider the magistrate judge's record and make an independent determination thereon. The judge may, but is not required to, accept or consider additional evidence, or may recommit the matter to the magistrate judge with instructions. *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and (C); FED. R. CIV. P. 72(b)(3); LMJR 2(c), Local Magistrate Judge Rules for the Eastern District of Washington. A magistrate judge's recommendation cannot be appealed to a court of appeals; only the district judge's order or judgment can be appealed.

The Clerk of the Court is directed to file this Report and Recommendation and provide a copy to Plaintiff.

DATED August 14, 2024.




JAMES A. GOEKE
UNITED STATES MAGISTRATE JUDGE